

E-FILED - 11/30/10

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD JAMES JUNIEL, JR.,) No. C 07-4542 RMW (PR)
vs. Petitioner,) ORDER DENYING EX PARTE MOTION
T. FELKNER, Warden,) TO RECONSIDER
Respondent.)

On May 11, 2010, the court denied petitioner’s petition for writ of habeas corpus on the merits and entered judgment in favor of respondent. On May 27, 2010, petitioner filed an ex parte motion to reconsider the judgment. In his motion to reconsider, petitioner claims that Rule 11(a) of the Rules Governing § 2254 Cases, 28 U.S.C. foll. § 2254, became effective on December 1, 2009 – after the date he filed his federal habeas petition – and therefore, should not have been applied in petitioner’s case. Rule 11(a) is merely a procedural requirement directing a district court that denies a habeas petition to grant or deny a certificate of appealability simultaneously in its ruling.

Petitioner's motion to reconsider is DENIED.

IT IS SO ORDERED.

DATED: 11/30/10

Ronald M. Whyte
RONALD M. WHYTE
United States District Judge